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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-199683

DATE: February 24, 1982

MATTER OF: Captain Wilford A. Day, USAF

DIGEST: A member's claim for reimbursement of rent paid to relatives from whom his wife and four children rented an apartment while on safe haven orders should be paid. While paragraph M4205-1, Volume 1, Joint Travel Regulations, provides no reimbursement will be allowed when an individual lodges as a guest of relatives or friends, rent paid a more distant relative for a separate apartment in the relative's house may be allowed.

The wife and four children of an Air Force officer traveled to a safe haven where they rented an apartment in the home of relatives. Expenses may be reimbursed in the same way as if they had rented from non-relatives or commercial sources for the reasons given below.

This question was presented for an advance decision by an Accounting and Finance Officer, Headquarters Shipyard Technical Training Center (ATC), Sheppard Air Force Base, Texas. The request was assigned PDTATAC Control No. 80-26, by the Per Diem, Travel and Transportation Allowance Committee.

Captain Wilford G. Day's dependents, Mrs. Kathy Day and four children, were forced to evacuate Iran in November 1978. They first went to Athens, Greece, and then to American Fork, Utah (designated a safe haven by the Air Force in this case) where they remained for 5 months. Upon arrival in American Fork on December 27, 1978, Mrs. Day and family stayed with her father-in-law while she looked for an apartment. However, there were no established apartments in the area and houses generally required a 6-month lease. Mrs. Day could not enter into such a lease because she was subject to being returned to Iran. In addition Mrs. Day needed to be near the family since she relied on them for day to day transportation.

Because she was unable to find a commercial apartment, Mrs. Day reached an agreement with her husband's uncle and

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aunt under which they would convert their basement into an apartment. They agreed on a monthly rent of \$100 and Mrs. Day and children moved in on January 8, 1979. The apartment has two bedrooms, a kitchen, a bathroom and a private entrance. During the first month, Mrs. Day checked the price of the nearest apartments, approximately 12 miles away. These were in the Maple Hill Motel, which rents a kitchenette with a front room-bedroom combination for \$70.04 a week and requires a 6-month lease. With this information, the parties agreed to increase the rent to \$100 per week for the remaining 4 months.

Section 405a of title 37, United States Code authorizes the payment of an allowance to a member when his dependents are ordered to evacuate his permanent station and actually move to a designated safe haven. Paragraph M12007, Volume 1, Joint Travel Regulations (1 JTR) promulgated pursuant to 37 U.S.C. § 405a provides that command-sponsored dependents at safe haven locations are to receive per diem allowances computed under the provisions of 1 JTR para. M 12007.4a predicated on the allowances payable to a member on temporary duty.

A question arises as to Captain Day's entitlement since a member on temporary duty who stays with friends or relatives is not entitled to the lodging portion of his per diem allowance. 1 JTR M4205, 52 Comp. Gen. 78 (1972), and 55 Comp. Gen. 856 (1976).

We explained in B-198349, November 3, 1980 (60 Comp. Gen. _____), that "the purpose of the prohibition against reimbursing friends and relatives is to eliminate potential abuse from occurring in connection with claims involving lodging with friends or relatives." This case is different from B-198349 because Mrs. Day and her children were not "lodging with" their relatives since they lived in a separate part of the house with separate outside access. Mrs. Day was sent to American Fork to be near her husband's family during a time of uncertainty. It is probable that she would have occupied a commercial apartment had one been available. Since no commercial accommodations were available arrangements were made by Mrs. Day to occupy an apartment which was set aside for that purpose in the house of her husband's uncle.

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We find it particularly important that the rooms occupied were set off separately for Mrs. Day and the children. Also the duration of the stay and the lack of close ties with the particular relative involved serve to distinguish this case from the usual case of staying with friends or relatives. Here the relatives took steps to set off a part of their home as an apartment. They then determined what would be an appropriate rent. In these circumstances it is determined that Mrs. Day and the children were not lodging as guests of relatives during the period in question. Accordingly, reimbursement may be computed allowing the cost of the apartment.

Accordingly, the vouchers are returned and may be paid if computed in accordance with regulations in effect at that time.

Milton J. Amsler
for Comptroller General
of the United States